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EXAMINER	
POLLOCK, GREGORY A	

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/775,527	ROBBIN, JEFFREY L.	
	Examiner	Art Unit	
	GREG POLLOCK	3695	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *23 September 2008*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-3,5,6,9,11-16,19 and 21-24* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-3,5,6,9,11-16,19 and 21-24* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date *09/23/2008*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

1. This action is responsive to Applicant's amendment and request for reconsideration of application 10/775527 filed 02/27/2008.

The amendment contains previously presented claims 2, 3, 5, 6, 12-16, and 22.

The amendment contains amended claim 1, 9, 11, 19, 21, 23, and 24.

Claims 4, 7, 8, 10, 17, 18, and 20 have been canceled.

Priority

2. Applicant's claim for the benefit of a prior-filed application under 35 U.S.C. 119(e) is acknowledged. Applicant has not complied with one or more conditions for receiving the benefit of an earlier filing date under 35 U.S.C. 119(e) as follows: The later-filed application must be an application for a patent for an invention which is also disclosed in the prior application (the parent or original nonprovisional application or provisional application). The disclosure of the invention in the parent application and in the later-filed application must be sufficient to comply with the requirements of the first paragraph of 35 U.S.C. 112. See *Transco Products, Inc. v. Performance Contracting, Inc.*, 38 F.3d 551, 32 USPQ2d 1077 (Fed. Cir. 1994).

The disclosure of the prior-filed application, Application No. 60465410, fails to provide adequate support or enablement in the manner provided by the first paragraph of 35 U.S.C. 112 for one or more claims of this application. The

content of claims 1-24 were not disclosed in the provisional Application No. 60465410.

a. As to claims 1, 11, and 23 there is no support in a prior-filed application for the limits "priority levels associated with the different media-based actions" or "a task manager that manages performance of at least browse, preview, purchase or download operations by assigning priority levels to each of the browse, preview, purchase or download operations, and managing performance of the browse, preview, purchase or download operations in accordance with the assigned priority levels".

b. As to claims 2 – 10, 12-22, and 24 these are dependent claims to independent claims 1, 11, or 23 and, therefore, are also unsupported by the prior-filed application.

Accordingly, claims 1-3, 5, 6, 9, 11-16, 19, and 21-24 are not entitled to the benefit of the prior application.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

6. Claims 1-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nieh et. al. (Jason Nieh and Monica S. Lam, "The Design, Implementation and Evaluation of SMART: A Scheduler for Multimedia Applications", Proceedings of the Sixteenth ACM Symposium on Operating Systems Principles, St. Malo, France (October, 1997)) in view of Homer (US Application 09/910438, date of publication: April 11, 2002).

As per claim 1, Nieh et. al. **teaches a method for managing tasks performed on a computer** ("SMART (Scheduler for Multimedia And Real-Time applications), a processor scheduler that fully supports the application characteristics described above" [pg. 2, para. 4, lines 1-2], where the scheduler is the task manager and the processor is the computer. The "application characteristics described above" refer to Section 1.1 and include: Soft real-time constraints (ex. audio/video synchronization [pg. 1, para. 7], Insatiable resource demands and frequent overload (ex. video playback) [pg. 1, para. 8], Dynamically adaptive applications (ex. graceful degrade of media applications) [pg. 1, para. 9], co-existence with conventional computations (ex. compilers) [pg. 1, para. 10], and Dynamic environment [pg. 2, para. 3], User preferences (ex. trading off the speed of a compilation versus the display quality of a video) [pg. 2, para. 3]) capable of coupling over a network to a network-based media server ("all experiments were performed with all system functions running, the window system running, and the system connected to the network." [see pg. 9, para. 3, lines 1-5], where the experiments refer to test run using SMART to demonstrate its effectiveness)**, said method comprising:**
receiving tasks to be performed from a single media player program operating on the computer (SMART schedules tasks received from an operating system which runs multi-media tasks (or applications) on a computer [see pg. 8, Section 6], where the "operating system running multi-media tasks" maps to "a single media player program")**, the tasks pertaining to one or more different media-based actions** (tasks include displaying news (synchronized audio and video streams) and entertainment (video) and is integrated with SMART [pg. 8, ¶13-15])
coordinating performance of the activated operations at the client media player program in accordance with priority levels associated with the different media-based actions of the tasks, each of the different media-based actions having a different priority level. ("The SMART scheduling algorithm is used to determine the next task to run" and is based on "priority and

the biased virtual finishing time (BVFT). [pg. 4, para. 2, lines 2-6]), **the priority levels for the different media-based actions being user-modifiable** ([pg. 2, para. 4, lines 9-12] and [pg.3, para. 3, lines 6-7]).

Nieh et. al. does not specifically teach that **the tasks involving interaction with the media server over the network and activating an operations at the at the client media player program at the computer to respond to each of the tasks.**

Homer teaches **the tasks involving interaction with the media server over the network** ("an electronic media distribution/play system includes a service facility that has a communications network interface" [Abstract lines 1-3] where the service facility "can be implemented as a server computer" [¶29, line 6]. Also, see Figure 1, where element 11 is the service facility and element 42 is the client application (media player). The client application is able to interact with the service facility with a button which is added to the users media player via a downloadable patch or plug-in [¶60, lines 1-13]) **and activating an operation at the at the client media player program at the computer to respond to each of the tasks** ([¶18] and [claim 25]).

One of ordinary skill in the art at the time of the invention would be able to combine the invention of Homer with that of Nieh et. al. to achieve the claimed invention. The tasks of previewing and browsing are taught in Nieh et. al. as one of Soft real-time constraints (ex. audio/video synchronization [pg. 1, para. 7], Insatiable resource demands and frequent overload (ex. video playback) [pg. 1, para. 8], Dynamically adaptive applications (ex. graceful degrade of media applications) [pg. 1, para. 9]. The tasks of purchasing and downloading are taught in Nieh et. al. as co-existence with conventional computations (ex. compilers) [pg. 1, para. 10]. Though Nieh et. al. does not explicitly indicate purchasing and downloading as fitting within this category of tasks, functionally there is nothing unique about purchasing and downloading media than any other item over the internet and as such required conventional resources. In Nieh et. al. page 2, paragraph 3 titled "User preferences", that the user is able to prioritize these tasks. An example is given where the speed of computation (a conventional computation such as purchasing or downloading) versus the display quality of a video (a Soft real-time constraints, Insatiable resource demands and frequent overload, or Dynamically adaptive applications such as previewing and browsing media) is adjustable according to user preference. One skilled in the art would be motivated to combine the inventions because Homer provides a system which is easy to use in that it eliminates physical delivery of media and/or keys for downloading media, is less expensive to manage in that it does not require particular works to be metered separately, and do no require undesirable compromises between the number of available works and the cost of obtaining access.

As per claim 2, the rejection of claim 1 has been addressed.
Nieh et. al. further teaches **a method wherein the priority levels are provided on a per-computer basis** ("most users will run the applications in the default priority level with equal shares. This is the system default and requires no user parameters." [see pg. 3, para. 4, lines 1-3], where the system default is provided with the computer) **or a per-user basis.** ("The user can specify that applications have different priorities" [see pg.3, para. 3, lines 6-7])

As per claim 3, the rejection of claim 1 has been addressed.
Nieh et. al. further teaches **a method wherein said coordinating operates to coordinate the execution of the activated operations pertaining to a particular user of the computer based on the priority levels.** ("The user can specify that applications have different priorities" [see pg.3, para. 3, lines 6-7] and ("The SMART scheduling algorithm used to determine the next task to run" is based on "priority and the biased virtual finishing time (BVFT). [see pg. 4, para. 2, lines 2-6])

As per claim 5, the rejection of claim 1 has been addressed.
Nieh et. al. does not teach **a method wherein the different media-based actions include at least: previewing media, browsing media, purchasing media, and downloading media.**

Homer teaches **a method wherein the different media-based actions include at least: previewing media** ("play preview" [pg. 7, para. 63, line 14]), **browsing media** (uses a catalog to browse media [pg. 7, para. 63, line 11]), **purchasing media** (the system can "set up customer accounts, process payments from customers for establishing file access authorizations, and enables transmission user-selected files to customers" [¶ 10, lines 7-10], **and downloading media** ([Figure 1], "the customer selects items from the catalog 35 to be downloaded over the computer network 14 to the mass storage device 40 of the customer computer 16" [¶35, lines 23-25]).

One of ordinary skill in the art at the time of the invention would be able to combine the invention of Homer with that of Nieh et. al. to achieve the claimed invention. The tasks of previewing and browsing are taught in Nieh et. al. as one of Soft real-time constraints (ex. audio/video synchronization [pg. 1, para. 7], Insatiable resource demands and frequent overload (ex. video playback) [pg. 1, para. 8], Dynamically adaptive applications (ex. graceful degrade of media applications) [pg. 1, para. 9]. The tasks of purchasing and downloading are real-time tasks normally performed by a computer connected to a network. Nieh et. al. calls such tasks conventional computations [pg. 1, para. 10]. Though Nieh et. al. does not explicitly indicate media purchasing and downloading as fitting within this category of tasks, functionally there is nothing unique about purchasing and

downloading media than any other item over the network system. In Nieh et. al. page 2, paragraph 3 titled "User preferences", that the user is able to prioritize these tasks. An example is given where the speed of computation (a conventional computation such as purchasing or downloading) versus the display quality of a video (a Soft real-time constraints, Insatiable resource demands and frequent overload, or Dynamically adaptive applications such as previewing and browsing media) is adjustable according to user preference. One skilled in the art would be motivated to combine the inventions because Homer provides a system which is easy to use in that it eliminates physical delivery of media and/or keys for downloading media, is less expensive to manage in that it does not require particular works to be metered separately, and do no require undesirable compromises between the number of available works and the cost of obtaining access.

As per claim 6, the rejection of claim 5 has been addressed.
Nieh et. al. does not teach **a method wherein the media includes at least one of audio, video or images.**

Homer teaches **a method wherein the media includes at least one of audio, video or images** (electronic media distribution/play system can be used in conjunction with a commercially and/or publicly available media player and that media players are known devices for accessing media files which include text-only material (images), audio, and video (pg. 2, para. 31, lines 15-25]).

One of ordinary skill in the art at the time of the invention would be able to combine the invention of Homer with that of Nieh et. al. to achieve the claimed invention. The tasks of previewing and browsing are taught in Nieh et. al. as one of Soft real-time constraints (ex. audio/video synchronization [pg. 1, para. 7], Insatiable resource demands and frequent overload (ex. video playback) [pg. 1, para. 8], Dynamically adaptive applications (ex. graceful degrade of media applications) [pg. 1, para. 9]. The tasks of purchasing and downloading are real-time tasks normally performed by a computer connected to a network. Nieh et. al. calls such tasks conventional computations [pg. 1, para. 10]. Though Nieh et. al. does not explicitly indicate media purchasing and downloading as fitting within this category of tasks, functionally there is nothing unique about purchasing and downloading media than any other item over the network system. In Nieh et. al. page 2, paragraph 3 titled "User preferences", that the user is able to prioritize these tasks. An example is given where the speed of computation (a conventional computation such as purchasing or downloading) versus the display quality of a video (a Soft real-time constraints, Insatiable resource demands and frequent overload, or Dynamically adaptive applications such as previewing and browsing media) is adjustable according to user preference. One skilled in the art would be motivated to combine the inventions because Homer provides a system which is easy to use in that it eliminates physical delivery of media and/or keys

for downloading media, is less expensive to manage in that it does not require particular works to be metered separately, and do no require undesirable compromises between the number of available works and the cost of obtaining access.

As per claim 9, the rejection of claim 1 has been addressed.
Nieh et. al. further teaches **a method wherein the media includes at least audio** ([pgs. 1-2, Section 1.1]).

Nieh et. al. does not teach **the different media-based actions interact with the media server include at least: previewing music, browsing music, purchasing music, and downloading music.**

Homer teaches **the different media-based actions interact with the media server include at least: previewing music** ("play preview" [¶63, line 14], where electronic media distribution/play system can be used in conjunction with a commercially and/or publicly available media player and that media players are known devices for accessing media files which includes audio [¶31, lines 15-25]), **browsing music** (a catalog is used to browse media [pg. 7, para. 63, line 11]), **purchasing music** (the system can "set up customer accounts, process payments from customers for establishing file access authorizations, and enables transmission user-selected files to customers" [¶10, lines 7-10]), **and downloading music** ([Figure 1], "the customer selects items from the catalog 35 to be downloaded over the computer network 14 to the mass storage device 40 of the customer computer 16" [pg. 3, para. 35, lines 23-25]).

One of ordinary skill in the art at the time of the invention would be able to combine the invention of Homer with that of Nieh et. al. to achieve the claimed invention. The tasks of previewing and browsing are taught in Nieh et. al. as one of Soft real-time constraints (ex. audio/video synchronization [pg. 1, para. 7], Insatiable resource demands and frequent overload (ex. video playback) [pg. 1, para. 8], Dynamically adaptive applications (ex. graceful degrade of media applications) [pg. 1, para. 9]. The tasks of purchasing and downloading are taught in Nieh et. al. as co-existence with conventional computations (ex. compilers) [pg. 1, para. 10]. Though Nieh et. al. does not explicitly indicate purchasing and downloading as fitting within this category of tasks, functionally there is nothing unique about purchasing and downloading media than any other item over the internet and as such required conventional resources. In Nieh et. al. page 2, paragraph 3 titled "User preferences", that the user is able to prioritize these tasks. An example is given where the speed of computation (a conventional computation such as purchasing or downloading) versus the display quality of a video (a Soft real-time constraints, Insatiable resource demands and frequent overload, or Dynamically adaptive applications such as previewing and browsing media) is adjustable according to user preference. One skilled in the art

would be motivated to combine the inventions because Homer provides a system which is easy to use in that it eliminates physical delivery of media and/or keys for downloading media, is less expensive to manage in that it does not require particular works to be metered separately, and do no require undesirable compromises between the number of available works and the cost of obtaining access.

As per claim 11, Nieh et. al. teaches **a computer readable medium including at least at least executable computer program code tangibly stored thereon for managing tasks performed on a computer** ("SMART (Scheduler for Multimedia And Real-Time applications), a processor scheduler that fully supports the application characteristics described above" [pg. 2, para. 4, lines 1-2], where the scheduler is the task manager and the processor is the computer. The "application characteristics described above" refer to Section 1.1 and include: Soft real-time constraints (ex. audio/video synchronization [pg. 1, para. 7], Insatiable resource demands and frequent overload (ex. video playback) [pg. 1, para. 8], Dynamically adaptive applications (ex. graceful degrade of media applications) [pg. 1, para. 9], co-existence with conventional computations (ex. compilers) [pg. 1, para. 10], and Dynamic environment [pg. 2, para. 3], User preferences (ex. trading off the speed of a compilation versus the display quality of a video) [pg. 2, para. 3]) capable of coupling over a network to a network-based media server ("all experiments were performed with all system functions running, the window system running, and the system connected to the network." [see pg. 9, para. 3, lines 1-5], where the experiments refer to test run using SMART to demonstrate its effectiveness)

All of the remaining limits of Claim 11 have been previously addressed in Claim 1, and is therefore rejected using the same prior art and rationale.

As per claim 12, the rejection of claim 11 has been addressed.
All of the limits of Claim 12 have been previously addressed in Claim 2, and is therefore rejected using the same prior art and rationale.

As per claim 13, the rejection of claim 11 has been addressed.
All of the limits of Claim 13 have been previously addressed in Claim 3, and is therefore rejected using the same prior art and rationale.

As per claim 14, the rejection of claim 11 has been addressed.
All of the limits of Claim 14 have been previously addressed in Claim 1, and is therefore rejected using the same prior art and rationale.

As per claim 15, the rejection of claim 11 has been addressed.
All of the limits of Claim 15 have been previously addressed in Claim 5, and is therefore rejected using the same prior art and rationale.

As per claim 16, the rejection of claim 15 has been addressed.
All of the limits of Claim 16 have been previously addressed in Claim 6, and is therefore rejected using the same prior art and rationale.

As per claim 19, the rejection of claim 11 has been addressed.
All of the limits of Claim 19 have been previously addressed in Claim 9, and is therefore rejected using the same prior art and rationale.

As per claim 21, the rejection of claim 11 has been addressed.
Nieh et. al. does not teach **a computer readable medium wherein said computer program code for receiving and said computer program code for coordinating are part of the single media player program** (the SMART scheduling algorithm was implemented in the Solaris UNIX operating system [see pg. 1, para. 4, lines 3-4])**.**

As per claim 22, the rejection of claim 11 has been addressed.
Nieh et. al. teaches **a computer readable medium wherein said computer program code for receiving and said computer program code for coordinating are part an operating system program that operates on the computer.** (the SMART scheduling algorithm was implemented in the Solaris UNIX operating system [see pg. 1, para. 4, lines 3-4]).

7. Claims 23-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Homer (US Application 09/910438, date of publication: April 11, 2002) in view of Nieh et. al. (Jason Nieh and Monica S. Lam, "The Design, Implementation and Evaluation of SMART: A Scheduler for Multimedia Applications", Proceedings of the Sixteenth ACM Symposium on Operating Systems Principles, St. Malo, France (October, 1997)).

As per claim 23 Homer teaches **a computer for presenting media to its user** (Figure 1, element 15C)**, said computer comprising:**
a single client media application program ([Figure 1, element 42]) **operable to enable the user to play** ([¶31, lines 15-25])**, browse** (a catalog to browse media is used [¶63, line 11])**, preview** ("play preview" [¶63, line 14])**, purchase,**

(the system can "set up customer accounts, process payments from customers for establishing file access authorizations, and enables transmission user-selected files to customers" [¶10, lines 7-10]) **download** ([Figure 1], "the customer selects items from the catalog 35 to be downloaded over the computer network 14 to the mass storage device 40 of the customer computer 16" [¶35, lines 23-25]) **or present media items** ([¶33, lines 1-2]) **for the benefit of the user** (customer [Abstract]);

a network interface ([Figure 1, element 26]) **that permits said single client media application program to interact with a media commerce server** ("an electronic media distribution/play system includes a service facility that has a communications network interface" [Abstract lines 1-3] where the service facility "can be implemented as a server computer" [¶29, line 6]. Also, see Figure 1, where element 11 is the service facility and element 42 is the client application (media player). The client application is able to interact with the service facility with a button which is added to the users media player via a downloadable patch or plug-in [¶60, lines 1-13]) **that stores or manages a plurality of media items that can be browsed, previewed, purchased or downloaded** (distribution facility [Figure 1, element 10]);

Homer does not teach **a task manager that manages performance of at least browse, preview, purchase and download operations by assigning user-modifiable priority levels to each of the browse, preview, purchase and download operations, and managing performance of the browse, preview, purchase and download operations in accordance with the assigned user-modifiable priority levels.**

Nieh et. al. teaches "SMART (Scheduler for Multimedia And Real-Time applications), a processor scheduler that fully supports the application characteristics" [pg. 2, para. 4, lines 1-2], where the scheduler is the task. The "application characteristics" refer to Section 1.1 and include: Soft real-time constraints (ex. audio/video synchronization [pg. 1, para. 7], Insatiable resource demands and frequent overload (ex. video playback) [pg. 1, para. 8], Dynamically adaptive applications (ex. graceful degrade of media applications) [pg. 1, para. 9], co-existence with conventional computations (ex. compilers) [pg. 1, para. 10], and Dynamic environment [pg. 2, para. 3], User preferences (ex. trading off the speed of a compilation versus the display quality of a video) [pg. 2, para. 3]) The user preferences refer to user selectable priorities ("The user can specify that applications have different priorities" [see pg.3, para. 3, lines 6-7]) which SMART uses to schedule the next task to be run ("The SMART scheduling algorithm used to determine the next task to run" is based on "priority and the biased virtual finishing time (BVFT). [see pg. 4, para. 2, lines 2-6])

One of ordinary skill in the art at the time of the invention would be able to combine the invention of Nieh et. al. with that of Homer to achieve the claimed invention. The tasks of previewing and browsing are taught in Nieh et. al. as one of Soft real-time constraints (ex. audio/video synchronization [pg. 1, para. 7], Insatiable resource demands and frequent overload (ex. video playback) [pg. 1, para. 8], Dynamically adaptive applications (ex. graceful degrade of media applications) [pg. 1, para. 9]. The tasks of purchasing and downloading are real-time tasks normally performed by a computer connected to a network. Nieh et. al. calls such tasks conventional computations [pg. 1, para. 10]. Though Nieh et. al. does not explicitly indicate media purchasing and downloading as fitting within this category of tasks, functionally there is nothing unique about purchasing and downloading media than any other item over the network system. In Nieh et. al. page 2, paragraph 3 titled "User preferences", that the user is able to prioritize these tasks. An example is given where the speed of computation (a conventional computation such as purchasing or downloading) versus the display quality of a video (a Soft real-time constraints, Insatiable resource demands and frequent overload, or Dynamically adaptive applications such as previewing and browsing media) is adjustable according to user preference. The purpose of such a combination would be to provide more flexible, predictable controls to allow users to bias the allocation of priority of resources according to their preferences, thus increasing user satisfaction.

As per claim 24, the rejection of claim 23 has been addressed.
Homer teaches **browse** (a catalog to browse media is used [¶63, line 11]), **preview** ("play preview" [¶63, line 14]), **purchase,** (the system can "set up customer accounts, process payments from customers for establishing file access authorizations, and enables transmission user-selected files to customers" [¶10, lines 7-10]) **download** ([Figure 1], "the customer selects items from the catalog 35 to be downloaded over the computer network 14 to the mass storage device 40 of the customer computer 16" [¶35, lines 23-25]).

Homer does not specifically teach **a computer wherein each of the operations are executed by a different processing, wherein said task manager causes the processing to be performed in accordance with the assigned priority levels.**

Nieh et. al. teaches **a computer wherein operations are executed by a different processing** (threads [pg. 8, para. 14] and [pg. 9, para. 5]), **a task manager causes the processing to be performed in accordance with the assigned priority levels** (user assigned priorities [pg. 2, para. 4, lines 9-12] and [pg.3, para. 3, lines 6-7]) and are used by the SMART scheduling algorithm to determine the next task to run" is based on "priority and the biased virtual finishing time (BVFT) [pg. 4, para. 2, lines 2-6]).

One of ordinary skill in the art at the time of the invention would be able to combine the invention of Nieh et. al. with that of Homer to achieve the claimed invention. The tasks of previewing and browsing are taught in Nieh et. al. as one of Soft real-time constraints (ex. audio/video synchronization [pg. 1, para. 7], Insatiable resource demands and frequent overload (ex. video playback) [pg. 1, para. 8], Dynamically adaptive applications (ex. graceful degrade of media applications) [pg. 1, para. 9]. The tasks of purchasing and downloading are taught in Nieh et. al. as co-existence with conventional computations (ex. compilers) [pg. 1, para. 10]. Though Nieh et. al. does not explicitly indicate purchasing and downloading as fitting within this category of tasks, functionally there is nothing unique about purchasing and downloading media than any other item over the internet and as such required conventional resources. In Nieh et. al. page 2, paragraph 3 titled "User preferences", that the user is able to prioritize these tasks. An example is given where the speed of computation (a conventional computation such as purchasing or downloading) versus the display quality of a video (a Soft real-time constraints, Insatiable resource demands and frequent overload, or Dynamically adaptive applications such as previewing and browsing media) is adjustable according to user preference. The purpose of such a combination would be to provide more flexible, predictable controls to allow users to bias the allocation of priority of resources according to their preferences, thus increasing user satisfaction.

Response to Arguments

8. Applicant's arguments with regards to claims 1-3, 5, 6, 9, 11-16, 19, and 21-24, filed 09/23/2008 have been fully considered but they are not persuasive in view of previously presented art used as grounds of rejection and new mapping and arguments presented by the examiner in the "Claim Rejections - 35 USC § 103" section of this office action.

9. The applicant has argued on pages 7 and page 8 that the claim limits of receiving tasks to be performed from a single media player program in claims 1 and 11 is not taught or suggested by Nieh et. al. and Homer combined.

10. The examiner respectfully disagrees with the applicant's argument. The examiner notes that, as claimed, any system that performs / invokes media operations is a media player. In the mapping of the claims as presented in this office action, the applicant's media player maps to the operating system of Nieh et. al. The scheduler of Nieh is also integrated with a media player program as outlined in paragraph 13-15 of page 8. With such a mapping, the applications of Nieh et. al. map to the tasks of the present application. Specifically, it is noted that the claims are directed toward prioritization of **"different media-based actions include at least: previewing media, browsing media, purchasing media, and downloading media"**. The tasks of previewing and browsing are taught in Nieh et. al. as one of Soft real-time constraints (ex. audio/video synchronization [pg. 1, para. 7], Insatiable resource demands and frequent overload (ex. video playback) [pg. 1, para. 8], Dynamically adaptive applications (ex. graceful degrade of media applications) [pg. 1, para. 9]. The tasks of purchasing and downloading are taught in Nieh et. al. as co-existence with conventional computations (ex. compilers) [pg. 1, para. 10]. Though Nieh et. al. does not explicitly indicate purchasing and downloading as fitting within this category of tasks, functionally there is nothing unique about purchasing and downloading media than any other item over the internet and as such required conventional resources. The tasks of purchasing and downloading are real-time tasks normally performed by a computer connected to a network. Nieh et. al. calls such tasks conventional computations [pg. 1, para. 10]. Though Nieh et. al.

does not explicitly indicate media purchasing and downloading as fitting within this category of tasks, functionally there is nothing unique about purchasing and downloading media than any other item over the network system. In Nieh et. al. page 2, paragraph 3 titled "User preferences", that the user is able to prioritize these tasks. An example is given where the speed of computation (a conventional computation such as purchasing or downloading) versus the display quality of a video (a Soft real-time constraints, Insatiable resource demands and frequent overload, or Dynamically adaptive applications such as previewing and browsing media) is adjustable according to user preference. As such, the examiner contends that the claims limits are taught by Nieh et. al. and Homer as found in the "Claim Rejections - 35 USC § 103" section of this office action.

11. The applicant has argued on page 8 that Nieh et. al. and Homer combined do not teach that the user can not modify the individual priority levels of audio and video streams.

12. The examiner respectfully disagrees with the applicant's argument. Section 1.1 of Nieh et. al. defines tasks to be performed on a computer for processor scheduling. These tasks include Soft real-time constraints (ex. audio/video synchronization [pg. 1, para. 7], Insatiable resource demands and frequent overload (ex. video playback) [pg. 1, para. 8], Dynamically adaptive applications (ex. graceful degrade of media applications) [pg. 1, para. 9], co-existence with conventional computations (ex. compilers) [pg. 1, para. 10], and Dynamic

environment [pg. 2, para. 3]. These tasks are prioritized using User preferences (ex. trading off the speed of a compilation versus the display quality of a video) [pg. 2, para. 3] and [pg. 3, para. 4, especially lines 9-12]). As such, the examiner contends that the claims limits are taught by Nieh et. al. and Homer as found in the "Claim Rejections - 35 USC § 103" section of this office action.

13. The applicant has argued on page 9 that the claim limit of user-modifiable priorities for previewing media, browsing media, purchasing media, and downloading media in claim 23 is not taught or suggested by Nieh et. al. and Homer combined.

14. The examiner respectfully disagrees with the applicant's argument. The examiner notes that, as claimed, any system that performs / invokes media operations is a media player. In the mapping of the claims as presented in this office action, the applicant's media player maps to the operating system of Nieh et. al. The scheduler of Nieh is also integrated with a media player program as outlined in paragraph 13-15 of page 8. With such a mapping, the applications of Nieh et. al. map to the tasks of the present application. Specifically, it is noted that the claims are directed toward prioritization of "**different media-based actions include at least: previewing media, browsing media, purchasing media, and downloading media**". The tasks of previewing and browsing are taught in Nieh et. al. as one of Soft real-time constraints (ex. audio/video synchronization [pg. 1, para. 7], Insatiable resource demands and frequent

overload (ex. video playback) [pg. 1, para. 8], Dynamically adaptive applications (ex. graceful degrade of media applications) [pg. 1, para. 9]. The tasks of purchasing and downloading are taught in Nieh et. al. as co-existence with conventional computations (ex. compilers) [pg. 1, para. 10]. Though Nieh et. al. does not explicitly indicate purchasing and downloading as fitting within this category of tasks, functionally there is nothing unique about purchasing and downloading media than any other item over the internet and as such required conventional resources. The tasks of purchasing and downloading are real-time tasks normally performed by a computer connected to a network. Nieh et. al. calls such tasks conventional computations [pg. 1, para. 10]. Though Nieh et. al. does not explicitly indicate media purchasing and downloading as fitting within this category of tasks, functionally there is nothing unique about purchasing and downloading media than any other item over the network system. In Nieh et. al. page 2, paragraph 3 titled "User preferences", that the user is able to prioritize these tasks. An example is given where the speed of computation (a conventional computation such as purchasing or downloading) versus the display quality of a video (a Soft real-time constraints, Insatiable resource demands and frequent overload, or Dynamically adaptive applications such as previewing and browsing media) is adjustable according to user preference. As such, the examiner contends that the claims limits are taught by Nieh et. al. and Homer as found in the "Claim Rejections - 35 USC § 103" section of this office action.

Conclusion

3. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- Goci et al. (PGPUB No. 20040025185) – teaches an integrated video jukebox and entertainment management system for a premises comprises a video jukebox server providing a set of video selections customized to a predetermined commercial enterprise for the premises. A large-area display system is deployed in the premises. A plurality of jukebox clients are deployed in the premises and networked with the jukebox server. A payment acceptor is coupled to at least one of the jukebox clients for establishing credits for accessing the video selections. A touch screen input device is coupled to the one jukebox client for providing a user interface wherein a user is able to browse the set of video selections and choose a desired video selection for display by the large-area display system. The one jukebox client transmits a request to the jukebox server for displaying the desired video selection if sufficient credits are established.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gregory Pollock whose telephone number is 571 270-1465. The examiner can normally be reached on 7:30 AM - 4 PM, Mon-Fri Eastern Time.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jay Kramer can be reached on 571 272-6783. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

GAP

12/3/2008

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